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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,875	10/18/2001	John Kliewe	AUS920010747US1	7313
7590	08/12/2004		EXAMINER	
Robert H. Frantz P.O. Box 23324 Oklahoma City, OK 73123-2334			NGUYEN BA, HOANG VU A	
			ART UNIT	PAPER NUMBER

2122

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/981,875

Applicant(s)

KLIEWE, JOHN

Examiner

Hoang-Vu A Nguyen-Ba

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/22/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is responsive to the application filed October 18, 2001.
2. The priority date considered is October 18, 2001.
3. Claims 1-14 have been examined.

### *Drawings*

4. The drawings filed October 18, 2001 are objected to by the examiner because of the following typographical errors:
  - a. Figure 3: the word "Lounches" in box 33;
  - b. Figure 4: the word "Creat" in box 44.

### *Claim Objection*

5. Claims 3, 7, 9 and 13 are objected to because of the following informalities:
  - a. claims 3, 7 and 13 recite, among other things, the limitations *a "parsenum"* at line 4 and *an "empty"* at line 5. Since it is unclear what *a "parsenum"* and *an "empty"* are, these limitations are thus interpreted to mean – a "parsenum" parameter – and – an "empty" parameter – for art rejection purposes;
  - b. claim 9 contains a possible typographical error at line 4: "so." For art rejection purposes, the term "so" is interpreted to mean – to --.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2, 3, 4, 6, 7, 8, 9, 10, 12, 13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Lack of antecedent basis:

Claim 9 recites the limitation "said native file tailoring functions" at line 9. There is insufficient antecedent basis for this limitation in the claim.

b. Unclear:

Claims 3, 7 and 13 recite the limitation "a parameter selected from the group of a set of keys, a skeleton file pointer, ..., and a 'sort' parameter." It is unclear whether or not the limitation shall be interpreted to mean – a parameter selected from a group of parameters comprising: key parameters, skeleton file pointer parameters, "stat" parameter, ... and "sort" parameter. –

Correction is required.

### *Claim Rejections - 35 USC § 101*

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 9-14 are rejected under 35 U.S.C § 101 because the claimed invention is directed to non-statutory subject matter.

Claim 9 merely recites a system comprising a control script and a preparation function. These elements are interpreted to be software components, i.e., computer program per se. Such claimed matter, which is descriptive material or non-functional descriptive material is not statutory because it is not a physical "thing" nor a statutory process as there are not

"acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed aspects of the invention, which permit the computer's program's functionality to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the program itself is not a process, without the computer-readable medium needed to realize the computer's functionality. In contrast, a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus mandatory. *Warmerdam*, 33 F.d at 1361, 31 USPQ 2d at 1760. *In re Sarkar*, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978). See MPEP § 2106 (IV)(B)(1)(a).

Claims 10-14, which depend from claim 9, are also rejected under 35 U.S.C. § 101 for the same reasons.

### *Claim Rejections - 35 USC § 102*

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 4, 5, 8, 9, 11, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's admitted prior art (AAPA) of pages 2-6 and Figures 1 and 2 of applicant's background.

**Claims 1, 5 and 9**

AAPA discloses at least :

*receiving a set of data preparation control parameters* (see at least Figure 1, step 11 and related discussion in the specification, e.g., indicating to the FTF utility how the output data is to be formatted);

*building a set of empty tables based upon said control parameters* (see at least Figure 1, steps 11 & 12 and related discussion in the specification);

*processing a set of source data to load said empty tables according to said control parameters* (see at least Figure 1, steps 13 & 14 and related discussion in the specification); and

*invoking said native file tailoring functions on said loaded tables to obtain a desired set of tailored files* (see at least Figure 1, step 15 and related discussion in the specification).

**Claims 4, 8 and 14**

The rejection of base claims 1, 5 and 9 respectively is incorporated. AAPA further discloses *wherein said step of invoking native file tailoring functions comprises the step of invoking an ISPF file tailoring service* (see at least Figure 1, step 15 and related discussion in the specification).

**Claim 11**

The rejection of base claim 9 is incorporated. AAPA further discloses *wherein said control script is a Job Control Language (JCL) script* (see at least Figure 1, steps 12, 13, 14 and related discussion in the specification).

### Claim 12

The rejection of base claim 9 is incorporated. AAPA further discloses *wherein both the control script and the preparing function are adapted to run within an ISPF environment* (see at least Figure 1, steps 14, 15 and related discussion in the specification).

### Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2, 3, 6, 7, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA of pages 2-6 and Figures 1 and 2 of applicant's background in view of "search390.com Definitions: REXX," (hereinafter "REXX") provided by Applicant.

### Claims 2 and 6

The rejection of base claims 1 and 5 respectively is incorporated. AAPA does not specifically disclose *wherein said step of processing a set of source data comprises processing a set of tables using a REXX executable program*. However, REXX shows that IBM has designed an interpreted script called REXX in order to make programming accessible to non-programmers. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use REXX to input data into tables built by the FTF utility



because the use of REXX would ease the task of formatting the input data into the required tabular format.

### **Claims 3, 7 and 13**

The rejection of base claims 1, 5 and 9 respectively is incorporated. AAPA does not specifically disclose *wherein said step of receiving a set of data preparation control parameters comprises receiving a parameter selected from the group of a set of keys, a skeleton file pointer, a "stats" parameter, a "skip" parameter, a "parserum", a "xlat" parameter, a "margin" parameter, a "trunc" parameter, an "empty", and a "sort" parameter.* However, REXX shows that IBM has designed an interpreted script called REXX in order to make programming accessible to non-programmers. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use REXX to write procedures to empty a table (e.g., the claimed "empty" parameter) so that new input data could be entered into the table. One skilled in the art would have been motivated to write REXX scripts to ease the task of formatting the input data into the required tabular format.

The same rationale also applies for the implementation of the other parameters recited in the claims, e.g., "margin" parameter, etc.

### **Claim 10**

The rejection of base claim 9 is incorporated. AAPA does not specifically disclose *wherein said preparing function is a REXX executable script.* However, REXX shows that IBM has designed an interpreted script called REXX in order to make programming accessible to non-programmers. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use REXX to write procedures to empty a table

(e.g., the claimed "empty" parameter) so that new input data could be entered into the table. One skilled in the art would have been motivated to write REXX scripts to ease the task of formatting the input data into the required tabular format.

### *Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu A Nguyen-Ba whose telephone number is (703) 305-0103. The examiner can normally be reached on Tuesday-Friday, 6:00 – 16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Art Unit 2122

August 6, 2004

**ANTONY NGUYEN-BA  
PRIMARY EXAMINER**